

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 10021 of 1999****For Approval and Signature:****HONOURABLE MR.JUSTICE AKIL KURESHI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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JUNAGADH NAGAR PALIKA - Petitioner(s)
Versus
COLLECTOR & 4 - Respondent(s)

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Appearance :

NANAVATY ADVOCATES for Petitioner(s) : 1,
MR SIRAJ GORI, AGP for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2 - 5.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI**Date : 15/11/2005****ORAL JUDGMENT**

In the present petition, the petitioner Junagadh Nagarpalika has challenged the order dated 11.8.99 passed by the District Collector, Junagadh. By the

impugned order, the District Collector was pleased to confirm the ad-interim injunction order dated 15.7.99 passed against the petitioner.

2. In the nutshell, the controversy was with respect to a piece of land bearing survey No.293/1 known as 'Hajianiwadi' admeasuring 7 acres and 20 gunthas which the petitioner wanted to ear-mark for the purpose of use of the students of Vivekananda High School. The Collector preempted such an action and passed an interim order dated 15.7.1999 preventing the petitioner from passing final resolution handing over the possession of the land in question to the school. After hearing the petitioner, final order of permanent injunction came to be passed on 11st August 1999 which has been challenged in the present petition.

3. In response to the notice issued by the Court, the stand taken by the respondents is that the land in question was never transferred in favour of the petitioner and the land belongs to the Government. It is further contended that the Collector had the power to pass such an order under section 258 of the Gujarat Municipaliteis Act. The proposal of the Nagarpalika to

utilise the land in question for the students of the said school was mooted in the year 1999. Much has happened thereafter. The petitioner Nagarpalika has been converted into a Municipal Corporation. The elected bodies of the Institution also must have undergone several changes. It would, therefore, not be necessary to examine the legality of the order passed by the Collector at this distant point of time. If the new body wishes to put the land in question for any particular use, it will be open for such a body to pass appropriate resolution in accordance with law and to the extent it is permissible. If any such decision is arrived at, the respondents will have opportunity to examine the legality thereof in terms of the provisions of the Municipalities Act. In view of the changed circumstances and passage of time, this Court does not find it necessary to examine the legal questions arising in the present petition. The petition is therefore disposed of in view of the above observations. Rule is discharged with no order as to costs.

(Akil Kureshi, J.)

(vjn)